

The result of the implementation of these proposals can be a law of Ukraine on the full and limited partnerships, which should better regulate the creation, operation and liquidation of the Company, and include measures for the development and promotion of these types of business entities. The adoption of such a law should be preceded by broad public discussion among scientists, representatives of SMEs, public authorities and local governments, NGOs, unions, associations of entrepreneurs.

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## THE LEGAL REGULATION OF PROBATION AT EMPLOYMENT

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People have the right for employment and choice of working place by appealing to the enterprise, institution, organization, individual farming, to any other employer or with the help of the free assistance of the State Employment Service.

Foreigners and stateless persons who arrived in Ukraine for a specified period, are entitled to labor activity only if they have a work permit issued by the State Employment Service of Ukraine, unless otherwise provided by international treaties of Ukraine.

Nowadays the theme of probation is becoming more urgent in Ukraine. Especially in the context of widespread negative practices: hiring workers and immediately after the trial period firing them, as ones that did not pass probation or ones that do not correspond to the post. It allows individual companies and organizations use virtually free labor of usually young workers who can be fired with

the minimum compensation from the side of the employer.

Probation at employment is established in order to verify accordance of the worker to the job he is employed for. Condition of probationary period should be specified in an order or instruction of admission to employment. This condition allows the employer to check whether the employee can perform the job he is hired for in correct, efficient way, abide internal labor regulations.

However, the legislation of Ukraine provides a list of categories of workers who cannot be established with probation (for example, people under 18 years old; disabled, who were sent for this job in accordance with the recommendations of medical and social expertise; people, who were hired by the results of competition, etc.).

The initiative of establishing probation usually comes from the employer or his authorized body. However, the final decision on the inclusion of this condition to the employment contract depends on the agreement of the parties. If the parties agreed on the establishment of probation, they also have to agree about its specific period. The duration of the trial period depends on the type of work which is being performed and usually lasts from 30 to 90 days, although in some cases it may be continued up to 6 month.

If the employee during the trial was absent due to his temporary incapacity for work or for other valid reasons, probation may be extended by the corresponding number of days he was absent.

When the trial period has expired and the employee continues to work, he is considered to have passed the test and the following termination of employment contract is permitted only on a general basis.

If during this period was established the discrepancy of the worker to the job he is applied for, the employer or his authorized body within this period may terminate the employment contract.

However, termination of the employment contract on these grounds may be appealed by the employee in the order established for the consideration of labor disputes in matters of exemption.

Thus, the employee, who is being tested, fully applies to the norms of labor legislation, internal labor regulations, terms of collective agreement, provisions on wages and more. Therefore, the employee on probation period undertakes to perform a job and to follow work rules and the employer - to pay wages and provide working conditions necessary to perform specific work provided by labor legislation, collective agreement and agreement of the parties.

During probation the employee is subject to all the requirements and guarantees provided by labor legislation for all employees of specific enterprise, institution, organization, etc., including salary. Therefore, any restrictions of their rights or worsening of the situation in comparison with other workers are prohibited.

In conclusion, we should not forget that probation period is advantageous not only for the employer, but for employee. During this period he can take a closer look on working conditions and facilities, production technologies, the staff, etc., and figure out whether he wants to stay at the enterprise or not.

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## THE CONSTITUTION - MAIN SOURCE OF LABOUR LAW

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The most important law of our country - the Constitution, also called the Basic Law. It has the highest legal force and its norms are directly applicable.

The most important Chapter of the new Constitution of Ukraine, which defines its democratic principles, is Chapter II "Human and civil rights and freedoms". It is no coincidence that constitutional recognition of the rights, freedoms and guarantees is paid such great attention, as in the Art. 3 it is declared that the adoption and protection of human rights and freedoms is the main duty of the state.

Enshrined in Part 1 of the Art. 43 the right to work is formulated in accordance with the Art. 23 of the Universal Declaration of Human Rights. Everyone has an opportunity to earn his living by work which he freely chooses or freely agrees to. An individual alone disposes of their abilities to work and chooses a particular type of activity, occupation, and can choose not to get involved in any labour activity.

Particular attention is paid to ensuring economic and social rights. Thus, in the Part 2, Art. 43 there is the State's duty to create conditions for the full exercise of the citizens' right to work, to guarantee equal opportunities in the choice of profession and types of occupation, implementation of programs of vocational education, training and retraining of personnel according to the needs of society. The norm contained in the Part 3 Art. 43 on the prohibition of forced labor corresponds to the Art. 8 of the International Covenant on Civil and Political Rights. In the Art. 44 of the Constitution the right of workers to strike to protect their economic and social interests was enshrined for the first time, which corresponds to the Art. 8 of the International Covenant on Economic, Social and Cultural Rights. The Chapter 2, Art. 44 stipulates that the exercise of the right to strike is established by the law taking